

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS**

SCOTT L. BAENA, LITIGATION  
TRUSTEE OF THE LERNOUT &  
HAUSPIE SPEECH  
PRODUCTS N.V. LITIGATION TRUST,

Plaintiff,

v.

KPMG LLP and KLYNVELD PEAT  
MARWICK GOERDELER  
BEDRIJFSREVISOREN,

Defendants.

Civil Action No. 04-CV-12606 (PBS)

**JOINT MOTION OF PLAINTIFF AND DEFENDANT KLYNVELD PEAT  
MARWICK GOERDELER BEDRIJFSREVISOREN TO EXTEND  
RESPONSE DEADLINE AND RESCHEDULE HEARINGS**

Plaintiff, Scott L. Baena, Litigation Trustee of the Lernout & Hauspie Speech Products N.V. Litigation Trust and Defendant Klynveld Peat Marwick Goerdeler Bedrijfsrevisoren (“KPMG-B”), respectfully request the Court to briefly extend Plaintiff’s response deadline on Defendants’ motions to dismiss, and to reschedule the hearing on that motion and the initial scheduling conference, which are currently set for February 2, 2005. In support hereof, Plaintiff and KPMG-B state the following:

1. This action was commenced on August 2, 2004, when Plaintiff filed the complaint against Defendants in the United States Bankruptcy Court for the District of Delaware.

2. On November 30, 2004, upon the application of Defendant KPMG LLP, United States Bankruptcy Judge Wizmur ordered this action transferred to the United States District Court for the District of Massachusetts.

3. On December 22, 2004, this Court entered a Notice of Scheduling Conference setting an initial scheduling conference for February 2, 2005.

4. Defendants requested, and received from Plaintiff, an extension of time to respond to the complaint and, on January 7, 2005, each Defendant separately filed a motion to dismiss the complaint (the "Motions to Dismiss").

5. In mid-January 2005, pursuant to the directions of the Notice of Scheduling Conference, the Federal Rules of Civil Procedure and the Local Rules of this Court, counsel for Plaintiff and counsel for Defendants conferred twice with respect to the management of this case.

6. In those conferences, counsel agreed that Plaintiff's time to respond to Defendants' Motions to Dismiss be extended to Friday, February 11, 2005. In addition, Plaintiff consented to Defendants filing any reply briefs (as permitted by leave of the Court) by February 25, 2005.

7. On January 20, 2005, the parties received notice from the Court that the Motions to Dismiss were set for hearing on February 2, 2005, the same date as the initial scheduling conference. The briefing of the issues raised by the Motions to Dismiss, however, will not be completed by that date.

8. Accordingly, on January 21, 2005, Plaintiff contacted Defendants' counsel to ask that they agree to request the Court to briefly postpone the hearing so that the

agreed upon briefing scheduling can be implemented and the Court will have sufficient time to review the papers before the hearing.

9. Counsel for Defendant KPMG-B agreed and has joined in this motion.

10. Counsel for Defendant KPMG LLP has advised Plaintiff's counsel that he stands by his agreement to extend Plaintiff's response date to file his opposition to the Motion to Dismiss to February 11, 2005, but refuses to agree to briefly postpone the hearing date.

11. Accordingly, Plaintiff and KPMG-B respectfully request that this Court: (1) extend the date for Plaintiff's responses to the Motions to Dismiss to February 11, 2005; (2) reschedule the hearing on the Motions to Dismiss to a date that permits the briefing schedule agreed to by counsel to be completed and permits this Court sufficient time to review the submitted memoranda; and (3) reschedule the initial scheduling conference for the same date.

12. This relief in this motion is not sought to delay these proceedings, but to allow full and thorough briefing of the issues raised.

WHEREFORE, Plaintiff and KPMG-B respectfully requests that this Court enter an Order granting the relief sought in this motion as set forth above, together with such other and further relief as this Court deems just and proper.

SCOTT L. BAENA, LITIGATION TRUSTEE  
OF THE LERNOUT & HAUSPIE SPEECH  
PRODUCTS N.V. LITGATION TRUST

KLYNVELD PEAT MARWICK  
GOERDELER  
BEDRIJFSREVISOREN

By his attorneys,

By its attorneys:

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-AND-

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Dated: January 21, 2005

**LOCAL RULE 7.1 CERTIFICATION**

I hereby certify that on January 21, 2005 I conferred by telephone with Michael Flynn, Esq., counsel of record for defendant KPMG LLP, and attempted in good faith to resolve or narrow the issues set forth in this motion.

/s/ David W. Trench  
David W. Trench

**CERTIFICATE OF SERVICE**

I, Joel G. Beckman, hereby certify that on January 21, 2005, I caused a true copy of the foregoing document to be served upon all counsel of record by First Class postage pre-paid mail.

/s/ Joel G. Beckman

Joel G. Beckman